

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

HUNTAIR, INC.,	)	Civil Action No. 07 C 6890
	)	
Plaintiff,	)	The Honorable David H. Coar
	)	
v.	)	Magistrate Judge Morton Denlow
	)	
CLIMATECRAFT, INC.	)	
	)	
Defendant.	)	

**CLIMATECRAFT'S MOTION FOR THIRTY-DAY EXTENSION OF DEADLINE  
TO SERVE INVALIDITY CONTENTIONS**

Defendant, ClimateCraft, Inc. ("ClimateCraft"), seeks a thirty-day extension of time to serve its invalidity contentions on Plaintiff, Huntair, Inc. The current deadline is April 7. Fact discovery closes in this case on July 31. The requested extension, to May 7, will not prejudice Plaintiff, as about three months would still remain in which to complete fact discovery.

The extension is necessary because:

1. Counsel for Defendant is changing law firms, setting up a new, solo law firm to open at the beginning of April. This has occupied (and is occupying) a great deal of counsel's time, far beyond that which was anticipated.
2. Discovery is ongoing, but Plaintiff has not yet provided some information pertinent to invalidity and other issues pertaining to discovery are consuming a lot of time. The parties have exchanged discovery responses. Defendant's counsel has been negotiating with Plaintiff's counsel since early March regarding deficiencies in Plaintiff's discovery provisions; another such conversation occurred this afternoon. While progress is being made, this has taken time and is not finished.

3. For example, Plaintiff's initial responses to interrogatories and document requests are inadequate (the document responses "re-write the request" in terms of what is agreed to be provided and the interrogatory responses refuse to state contentions – including the infringement contentions). Plaintiff has not stated a date of conception other than to say "in or about November of 2002." Knowing the date of conception is often necessary in determining what constitutes "prior art."

4. The parties are negotiating a Protective Order to permit the protection of confidentiality. These discussions are ongoing; the parties are hopeful they will submit an agreed motion very soon. A portion of the initial document production has been exchanged, and the parties have agreed to provide additional documents over the coming weeks.

5. Documents pertaining to Huntair's conception, sales, offers for sale, etc., as well as documents relating to the development of Huntair's sister company's accused product (Huntair initially accused a company called Clean-Pak of infringement; these two companies are now believed to be commonly owned), relate directly to invalidity and have yet to be produced.

6. Other discovery issues are being worked on, and have consumed time. Plaintiff's initial disclosures listed names of potential witnesses, but did not identify what topics they will testify about or whether they are employed by Huntair. Informal supplementation has provided some additional information and Plaintiff's counsel has agreed to send more complete, formal supplementation. Additionally, Plaintiff has served Defendant with 22 subpoenas *duces tecum* directed to third parties (current or former independent sales reps of Defendant) and asked Defendant's counsel to accept service for and coordinate the responses of as many of these third parties as possible, and Defendant's counsel is working toward this goal.

Defendant asked Plaintiff to consent to the Motion, but this Motion is opposed.

Wherefore, Defendant urges that this Motion be GRANTED.

Respectfully submitted,

Date: March 24, 2008

s/Charles C. Kinne

Charles C. Kinne  
FITCH, EVEN, TABIN & FLANNERY  
120 South LaSalle Street, Suite 1600  
Chicago, Illinois 60603-3406  
Telephone 312.577.7000  
Facsimile 312.577.7007

*Attorneys for Defendant, Climatecraft, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing CLIMATECRAFT'S MOTION FOR THIRTY-DAY EXTENSION OF DEADLINE TO SERVE INVALIDITY CONTENTIONS was served upon:

David T. Pritikin  
Richard T. McCaulley  
Stephanie Pauline Smith Koh  
Sidley Austin LLP  
One South Dearborn Street  
Chicago, Illinois 60603  
(312) 853-7000

via electronic filing with the Court, this 24th day of March 2008.

s/Charles C. Kinne  
*Attorney for Defendant Climatecraft, Inc.*